

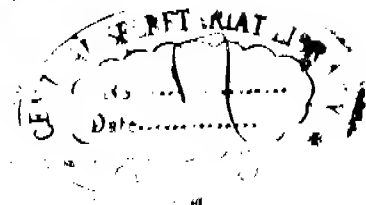


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं० 74] नई दिल्ली, शनिवार, अप्रैल 17, 1976/चैत्र 28, 1898
No. 74] NEW DELHI, SATURDAY, APRIL 17, 1976/CHAITRA 28, 1898

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 17th April, 1976/Chaitra 28, 1898 (Saka)

The following President's Act is published for general information:—

THE TAMIL NADU PRIVATE COLLEGES (REGULATION) ACT, 1976 No. 19 OF 1976

Enacted by the President in the Twenty-seventh Year of the
Republic of India

An Act to provide for the regulation of private colleges in the State of
Tamil Nadu.

41 of 1976. In exercise of the powers conferred by section 3 of the Tamil Nadu
State Legislature (Delegation of Powers) Act, 1976, the President is
pleased to enact as follows:—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Tamil Nadu Private Colleges
(Regulation) Act, 1976.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It applies to all private colleges.

(4) Save as otherwise provided in section 55, the provisions of this
Act shall be deemed to have come into force on the 21st day of
November, 1975.

Short
title,
extent,
applica-
tion and
com-
mence-
ment.

Definitions

2. In this Act, unless the context otherwise requires,—

(1) “academic year” means the year commencing on the first day of June;

(2) “college committee”, in relation to a private college, means the college committee referred to in section 11;

(3) “competent authority”, in relation to any provision of this Act, means—

(i) any university,

(ii) authority, officer or person,

empowered by the Government, by notification, to be the competent authority for the purposes of that provision and different competent authorities may be appointed for different provisions or for different areas or in relation to different classes of private colleges as may be specified in the notification;

(4) “educational agency”, in relation to—

(a) any minority college, means any person who, or body of persons which, has established and is administering or proposes to establish and administer such minority college, and

(b) any other private college, means any person or body of persons permitted or deemed to be permitted under this Act to establish and maintain such other private college;

(5) “Government” means the State Government;

(6) “grant” means any sum of money paid as aid out of State Funds to any private college;

(7) “minority college” means a private college of its choice established and administered, or administered, by any such minority whether based on religion or language as has the right to do so under clause (1) of article 30 of the Constitution;

(8) “private college” means a college maintained by an educational agency and approved by, or affiliated to, a university but does not include a college—

(a) established or administered or maintained by the Central Government or the Government or any local authority or any university, or

(b) giving, providing or imparting religious instruction alone, but not any other instructions;

(9) “secretary” in relation to a private college, means the secretary referred to in section 12;

(10) “teachers” means such Professors, Assistant Professors, Readers, Lecturers, Demonstrators, Tutors, Librarians and other like persons as may be declared to be teachers by the statutes framed under any law for the time being in force governing a university;

(11) “Tribunal” means a Tribunal constituted under section 38 and having jurisdiction;

(12) "university" means the Madras University, the Madurai University or, as the case may be, any other university that may be established in the State of Tamil Nadu under any law.

CHAPTER II

ESTABLISHMENT, PERMISSION FOR ESTABLISHMENT AND MANAGEMENT OF PRIVATE COLLEGES

3. Save as otherwise expressly provided in this Act, no person shall, without the permission of the Government and except in accordance with the terms and conditions specified in such permission, establish, on or after the date of commencement of this Act, any private college:

New
private
college
to obtain
permis-
sion.

Provided that it shall also be necessary to obtain affiliation of such college to a university.

4. (1) The educational agency of every private college proposed to be established on or after the date of commencement of this Act shall make an application to the Government for permission to establish such college.

Applica-
tion for
permission
and send-
ing of
state-
ment.

(2) Every such application shall—

(a) be in the prescribed form;

(b) be accompanied by such fee not exceeding five hundred rupees as may be prescribed; and

(c) contain the following particulars, namely:—

(i) the name of the private college and the name and address of the educational agency;

(ii) the need for the private college in the locality;

(iii) the course for which such private college proposes to prepare, train or guide its students for appearing at any examination conducted by, or under the authority of, a university;

(iv) the amenities available to students and teachers;

(v) the equipment, laboratory, library and other facilities for instruction;

(vi) the sources of income to ensure the financial stability of the private college;

(vii) the situation and the description of the buildings in which such private college is proposed to be established; and

(viii) such other particulars as may be prescribed.

(3) The educational agency of every private college in existence on the date of commencement of this Act, shall, within such period as may be prescribed, send to the Government a statement in the prescribed form containing—

(i) the particulars specified in clause (c) [excluding sub-clause (ii) thereof] of sub-section (2);

(ii) the names of the members of the teaching and non-teaching staff and the educational qualifications of each such member; and

(iii) the number of students and classes in the private college.

Grant of
permis-
sion.

5. (1) On receipt of an application under sub-section (1) of section 4, the Government—

(a) may, after considering the particulars contained in such application, grant or refuse to grant the permission; and

(b) shall communicate their decision to the applicant within such period as may be prescribed:

Provided that the permission shall not be refused under this section unless the applicant has been given an opportunity of making his representations:

Provided further that in case of refusal of the permission the applicant shall be entitled to the refund of one-half of the amount of the fee accompanying the application.

(2) The decision of the Government under clause (a) of sub-section (1) shall be final.

(3) No university shall grant affiliation to any private college unless permission has been granted by the Government under sub-section (1).

Permis-
sion
deemed
to be
granted
in certain
cases.

6. On receipt of a statement under sub-section (3) of section 4 from any private college in existence immediately before the date of commencement of this Act permission under sub-section (1) of section 5 shall be deemed to have been granted to such private college but no fee shall be payable for any such permission.

Approval
of transfer
of per-
mission.

7. (1) (a) Whenever there is any change in the constitution of the educational agency in relation to a private college, not being a minority college, that agency shall apply to the competent authority for approval of such change.

(b) Whenever the management of any private college is proposed to be transferred, the educational agency and the person to whom the management is proposed to be transferred may, before such transfer, apply jointly to the competent authority for approval of the transfer.

(c) On any transfer of the management of private college, without approval having been obtained for such transfer under clause (b), the transferee shall, if he desires to run it as such, apply to the competent authority within such period as may be prescribed for approval of the transfer.

(d) An application under clause (a), clause (b) or clause (c) shall be in such form and contain such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the competent authority shall—

(a) if it is satisfied, after making such inquiry as it deems fit, that the educational agency will continue to maintain and manage or, as the case may be, that the transferee will maintain and manage the private college in accordance with the provisions of this Act, and the rules made thereunder, approve the change or, as the case may be, the transfer, subject to such conditions as it may impose; and

(b) communicate its decision to the applicant within such period as may be prescribed.

8. Any minority, whether based on religion or language, may establish and administer any private college without permission under sub-section (1) of section 5 read with sections 3 and 4.

Minority college to be established without permission.

9. (1) Every minority college in existence immediately before the date of commencement of this Act shall send to the competent authority a statement containing the particulars specified in clause (c) [excluding sub-clause (ii) thereof] of sub-section (2) of section 4 within such period as may be prescribed.

Minority college to send statement.

(2) Every minority college established and administered after the date of commencement of this Act shall send to the competent authority a statement containing particulars specified in clause (c) of sub-section (2) of section 4 within such period as may be prescribed.

10. (1) Subject to such rules as may be prescribed, the Government may pay to the private college grant at such rate and for such purposes as may be prescribed.

Payment of grant.

(2) The Government may withhold permanently or for any specified period the whole or part of any grant referred to in sub-section (1) in respect of any private college—

(i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private college, or

(ii) in respect of which the pay and allowances payable to any teacher or other person employed in such private college are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or

(iii) which contravenes or fails to comply with any such conditions as may be prescribed.

(3) Before withholding the grant under sub-section (2), the Government shall give the educational agency an opportunity of making its representations.

CHAPTER III

COLLEGE COMMITTEE AND ITS CONSTITUTION AND FUNCTIONS

11. Every private college, not being a minority college, shall have a college committee which shall include the principal of the private college and two senior professors employed in the private college.

Constitution of college committee.

Secretary
of the
college
committee.

12. (1) Every college committee shall have a secretary who shall exercise such powers and perform such functions as may be prescribed.

(2) Every person holding office as president, secretary, manager or correspondent of a private college or exercising the powers of secretary under this Act on the date of its commencement shall be deemed to be a secretary under this Act.

Meetings
of the
college
committee.

13. (1) The college committee shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be prescribed:

Provided that the college committee shall meet at least once in every three months.

(2) The president of the college committee or, in his absence, any member chosen by the members present, shall preside at a meeting of the college committee.

(3) All questions at any meeting of the college committee shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the president or, in his absence the member presiding, shall have and exercise a second or casting vote.

Functions
of the
college
committee
and res-
ponsibility
of educa-
tional
agency
under
the
Act.

14. (1) Subject to the provisions of this Act and the rules made thereunder, the college committee shall have the following functions, namely:—

(a) to carry on the general administration of the private college excluding the properties and funds of the private college;

(b) to appoint teachers and other persons of the private college, fix their pay and allowances and define their duties and the conditions of their service; and

(c) to take disciplinary action against teachers and other persons of the private college.

(2) The educational agency shall be bound by anything done by the college committee in the discharge of the functions of that committee under this Act.

(3) For the purposes of this Act, any decision or action taken by the college committee in respect of any matter over which the college committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency.

CHAPTER IV

TERMS AND CONDITIONS OF SERVICE OF TEACHERS AND OTHER PERSONS EMPLOYED IN PRIVATE COLLEGES

Qualifi-
cations of
teachers
and other
persons
employed
in private
colleges.

15. The university may make regulations, statutes or ordinances specifying the qualifications required for the appointment of teachers and other persons employed in any private college.

16. (1) No person who does not possess the qualifications specified under section 15 shall, on or after the date of commencement of this Act, be appointed as teacher or other employee in any private college.

Appoint-
ment of
teachers
and other
persons
in
private
college.

(2) Nothing contained in this section or any regulation, statute or ordinance made under section 15 shall apply to any person who, on or before the date of commencement of this Act, is employed as teacher or other employee in any private college.

17. The Government may make rules in consultation with the university regulating the number and conditions of service (including promotion, pay, allowances, leave, pension, provident fund, insurance and age of retirement and rights as respects disciplinary matters but excluding qualifications) of the teachers and other persons employed in any private college.

Condi-
tions of
service,
etc., of
teachers
and other
persons
employed
in private
colleges.

18. (1) Every teacher and every other person employed in any private college shall be governed by such Code of Conduct as may be prescribed and if any teacher or other person so employed violates any provision of such Code of Conduct, he shall be liable to such disciplinary action as may be prescribed.

Teachers
and other
persons
employed
in private
colleges
to be
governed
by Code
of Con-
duct.

(2) The college committee may define the standards of conduct to be observed by teachers and other persons employed in the private college, such standards not being inconsistent with the provisions of this Act and the rules made thereunder.

19. (1) Subject to any rule that may be made in this behalf, no teacher or other person employed in any private college shall be dismissed, removed or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority.

Dismissal,
removal
or reduc-
tion in
rank or
suspension
of teachers
or other
persons
employed
in private
colleges.

(2) Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private college is communicated to the competent authority, that authority shall, if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment.

(3) (a) No teacher or other person employed in any private college shall be placed under suspension, except when an inquiry into the gross misconduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of section 18, of such teacher or other person is contemplated.

(b) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee:

Provided that the competent authority may, for reasons to be recorded in writing, extend the said period of two months, for a further period not exceeding two months, if, in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other person.

Appeal against orders of punishment imposed on teachers and other persons employed in private colleges.

20. Any teacher or other person employed in any private college—

(a) who is dismissed, removed or reduced in rank or whose appointment is otherwise terminated; or

(b) whose pay or allowances or any of whose conditions of service are altered or interpreted to his disadvantage,

by any order, may prefer an appeal against such order to such authority or officer as may be prescribed; and different authorities or officers may be prescribed for different classes of private colleges.

Explanation.—In this section, the expression “order” includes any order made on or after the date of commencement of this Act in any disciplinary proceeding which was pending on that date.

Second appeal in case of dismissal, removal or reduction in rank or termination of appointment of teachers or other persons employed in private colleges.

21. If the appeal under section 20 was against the dismissal, removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any private college, such teacher or other person or the educational agency aggrieved by any order made in any such appeal, may prefer an appeal against that appellate order to the Tribunal.

Special provision regarding appeal in certain past disciplinary cases.

22. (1) If, before the date of commencement of this Act, any teacher or other person employed in any private college has been dismissed or removed or reduced in rank or his appointment has been otherwise terminated and any appeal preferred before that date—

(a) by him against such dismissal or removal or reduction in rank or termination; or

(b) by him or the educational agency against any order made before that date in the appeal referred to in clause (a) is pending on that date,

such appeal shall,—

(i) in a case falling under clause (a), stand transferred to the appellate authority prescribed under section 20; or

(ii) in a case falling under clause (b), stand transferred to the Tribunal.

(2) If any such appeal as is referred to in sub-section (1) has been disposed of before the date of commencement of this Act, the order made in any such appeal shall be deemed to be an order made under this Act and shall have effect accordingly.

Pay and allowances of teachers and other

23. The pay and allowances of any teacher or other person employed in any private college shall be paid on or before such day of every

month, at such rate and in such manner and by or through such authority, officer or person, as may be prescribed.

Persons employed in private college to be paid in the prescribed manner.

24. (1) This Chapter or any rule providing for all or any of the matters specified in this Chapter or any order made in relation to any such matter shall have effect notwithstanding anything contained in any—

Chapter to have overriding effect and certain provisions thereof not to apply to minority colleges.

(i) other law for the time being in force, or

(ii) award, agreement or contract of service, whether such award, agreement or contract of service was made before or after the date of commencement of this Act, or

(iii) judgment, decree or order of court, tribunal or other authority:

Provided that where, under any such award, agreement, contract of service or otherwise, any teacher or other person employed in any private college is entitled to benefits in respect of any matter which are more favourable to him than those to which he will be entitled under this Chapter, such teacher or other person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(2) Nothing contained in this Chapter shall be construed as precluding any such teacher or other person from entering into an agreement for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Chapter.

(3) The provisions of sub-section (2) of section 18 and of sections 19 to 22 (both inclusive) of this Chapter or any rule providing for all or any of the matters specified therein or any order made in relation to any such matter shall not apply to a minority college.

CHAPTER V

CONTROL OF PRIVATE COLLEGES

25. (1) No private college and no class and no course of instruction therein in a private college shall be closed without a notice in writing having been given to the competent authority and without making such arrangements as may be prescribed for the continuance of the instruction of the students of the private college or the class or the course of instruction, as the case may be, for the period of study for which the students have been admitted.

Closure of private college.

(2) The period of notice under sub-section (1) shall be such as may be prescribed and different periods of notice may be prescribed for different classes of private colleges.

26. The educational agency shall, on or before the prescribed date in each year, furnish to the competent authority a statement (with such particulars as may be prescribed) of every—

Educational agency to send list of properties.

(a) movable property of not less than such value as may be prescribed; and

(b) immovable property;
of the private college.

Restric-
tion on
alienation
of pro-
perty of
private
college.

27. (1) Notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law—

(a) no property of a private college shall, except with the previous permission in writing of the competent authority, be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or in any other manner whatsoever; and

(b) if any such property is transferred without such permission, the transfer shall be null and void.

(2) The competent authority may—

(a) grant the permission under clause (a) of sub-section (1) if the transfer is made in furtherance of the purposes of the private college or of similar purposes approved by the competent authority; and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes; and

(b) when granting such permission, impose such conditions as it deems fit to ensure that such assets are wholly utilised in furtherance of such purposes; but a contravention of any such condition shall not invalidate the transfer:

Provided that the permission shall not be refused under this section unless the applicant has been given an opportunity of making his representations.

Explanation I.—For the purposes of this section, “property” means any—

(a) movable property of not less than such value as may be prescribed; and

(b) such immovable property as may be specified in the rules made in this behalf.

Explanation II.—In this section and sections 28 and 29, “private college” does not include a minority college.

Fees and
other
charges.

28. (1) Subject to the provisions of sub-section (2), no private college shall levy any fee or collect any other charge or receive any other payment except a fee, charge or payment specified by the competent authority:

Provided that the examination fees that are being prescribed by the university shall continue to be prescribed by such university.

(2) Every private college in existence on the date of commencement of this Act and levying different rates of fees or other charges or receiving any other amount on such date, shall obtain the prior approval of the competent authority before continuing to levy such fees or charges or receive such payment.

Utilisa-
tion of
funds and
property
of private
college.

29. (1) All the moneys collected, grants received and other property held by or on behalf of a private college shall be utilised for the purposes for which they are intended and shall be accounted for by the educational agency in such manner as may be prescribed.

(2) A private college may invest or deposit the funds—

- 23 of 1955. (a) in the State Bank of India constituted under the State Bank of India Act, 1955; or
- 38 of 1959. (b) in a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959; or
- 5 of 1970. (c) in any corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or Post Office Savings Bank; or
- 2 of 1982. (d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or
- (e) in such other mode as may be prescribed.

30. (1) If, on receipt of a report from the competent authority or otherwise, the Government are satisfied that the educational agency of any private college has neglected to discharge any of the duties imposed on, or to perform any of the functions entrusted to, that agency by or under this Act or any rule or order made or direction issued thereunder and that it is expedient in the interests of collegiate education to take over the management of such private college, the Government may, by order in writing, take over the management of such private college.

Taking
over
manage-
ment of
private
college.

(2) Before making an order under sub-section (1), the Government shall give the educational agency an opportunity of making its representations.

(3) Any order made under sub-section (1), shall have effect unless it is cancelled earlier for such period as may be specified in the order:

Provided that the period so specified shall not, in the first instance, exceed two years but may, by a like order, be extended from time to time, by any period not exceeding one year at any one time, if it appears to the Government that the interests of collegiate education require such extension, so, however, that no such order as so extended shall, in any case, remain in force for more than five years in the aggregate.

(4) On the making of an order under sub-section (1) taking over the management of a private college,—

(a) the educational agency and the college committee shall cease to discharge the duties imposed on, and to perform the functions entrusted to, that agency and that committee; and

(b) the Government—

(i) shall take all such steps as may be necessary to efficiently manage and run the private college in accordance with any law applicable to the private college in so far as such law is not inconsistent with this Act and the rules made thereunder and to take into the custody or control of the Government all the property, effects and actionable claims to which the private college is or appears to be entitled, and all the property and effects of the private college shall be deemed to be in the custody of the Government as on and from the date of the order; and

(ii) may afford such special educational facilities as were, immediately before the making of the order under sub-section (1) afforded at the private college.

Explanation.—In sub-clause (i) of clause (b), the expression “law” includes any by-law, rule, regulation, custom or usage.

(5) If at any time it appears to the Government that the purpose of the order made under sub-section (1) has been fulfilled or that for any other reason, the order shall be cancelled, the Government may, by order in writing, cancel the order made under sub-section (1) and on such cancellation, the maintenance and management of the private college shall stand restored to the educational agency.

(6) Any person aggrieved by any order of the Government under this section may prefer an appeal against such order to the Tribunal.

(7) This section or any order made thereunder shall have effect notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law.

Relinquish-
ment of
control
of pro-
perty.

31. (1) Where the control of any property taken over under section 30 is to be relinquished, the Government may, after making such inquiry, if any, as they consider necessary, by order in writing, specify the person to whom possession of the property shall be delivered.

(2) The delivery of possession of any such property to the person specified in the order made under sub-section (1) shall be a full discharge of the Government or the competent authority or any other authority or officer or servant of the Government from all liability in respect of such property, but shall not prejudice any right in respect of such property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any property referred to in sub-section (1) is to be delivered cannot be found or has no legal agent or other person empowered to accept delivery on his behalf, the Government shall cause to be published in the *Tamil Nadu Government Gazette*, a notice declaring that the control of such property is relinquished, and in the case of any building or land, shall cause a copy thereof to be affixed on some conspicuous part of such building or land.

(4) When the notice referred to in sub-section (3) is published in the *Tamil Nadu Government Gazette*,—

(a) the property specified in such notice shall cease, on and from the date of such publication, to be subject to the control of the Government or the competent authority or any other authority or officer or servant of the Government;

(b) possessions of such property shall be deemed to have been delivered on that date to the person entitled to possession thereof; and

(c) the Government or the competent authority or any other authority or officer or servant of the Government shall not be liable for any rent, compensation or other claim in respect of such property for any period after the said date.

32. Notwithstanding anything contained in this Chapter, the Government shall not take over the management of any minority college under section 30.

Minority college not to be taken over.

CHAPTER VI

ACCOUNTS, AUDIT, INSPECTION AND RETURNS

33. Every private college shall maintain accounts in such manner and containing such particulars as may be prescribed.

Accounts.

34. (1) The accounts of every private college receiving grant shall be audited at the end of every academic year by such authority, officer or person as may be prescribed and different authorities, officers or persons may be prescribed for different classes of private colleges.

Annual audit of accounts.

(2) (a) The authority, officer or person, prescribed under sub-section (1), shall send a copy of the report on the audit of the accounts, under that sub-section to the competent authority which shall forward the report to the educational agency.

(b) The educational agency shall, within such period as may be prescribed, submit that report together with the comments of that agency to the competent authority.

35. (1) The competent authority shall have the right to cause an inspection of, or inquiry in respect of, any private college, its buildings, laboratories, libraries, workshops and equipment, and also of the examinations, teaching and other work conducted or done by the private college, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected with the private college and in respect of the discharge of any other function under this Act and the educational agency shall be entitled to be represented thereat.

Inspection or inquiry.

(2) The competent authority shall communicate to the educational agency the views of that authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the educational agency thereon, advise that agency upon the action to be taken.

(3) The educational agency shall report to the competent authority the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report shall be furnished within such period as the competent authority may direct.

(4) Where the educational agency does not, within a reasonable time, take action to the satisfaction of the competent authority, that authority may, after considering any explanation furnished or representation made by the educational agency, issue such directions as that authority deems fit and the educational agency shall comply with such directions.

36. Every educational agency shall, within such time or within such extended time as may be fixed by the competent authority in this behalf, furnish to the competent authority such returns, statistics, and other information as the competent authority may, from time to time, require.

Furnishing of returns, etc.

CHAPTER VII

GENERAL PROVISIONS REGARDING APPEAL AND REVISION

Appeal
against
orders of
competent
authority.

37. (1) Any person aggrieved by any order, decision or direction of the competent authority under any provision of this Act may prefer an appeal against such order, decision or direction, to such authority or officer as may be prescribed; and different authorities or officers may be prescribed for different classes of private colleges.

(2) If the competent authority omits to communicate its decision to any applicant within the period prescribed under clause (b) of subsection (2) of section 7 such applicant may prefer an appeal against such omission to the appellate authority prescribed under this section.

Tribunal.

38. (1) The Government may, by notification, constitute as many Tribunals as may be necessary for the purposes of this Act.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer not below the rank of a district judge.

(3) Each Tribunal shall have such jurisdiction and over such area or in relation to such class of private colleges, as the Government may, by notification, from time to time, determine.

(4) Every Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while hearing an appeal.

5 of 1908.

Time for
appeal
and
powers
of appel-
late
authority.

39. (1) No appeal under any provision of this Act shall be preferred after the expiry of one month from the date on which the order, decision or direction appealed against, was received by the appellant:

Provided that the appellate authority may, in its discretion, allow further time not exceeding one month for preferring any such appeal if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(2) On receipt of any such appeal, the appellate authority shall, after—

(i) giving the parties an opportunity of making their representations,

(ii) making, if necessary, such inquiry as it deems fit, and

(iii) considering all the circumstances of the case,

make such order as it deems just and equitable.

(3) The appellate authority may, pending the exercise of its power, pass such interlocutory orders as it deems fit.

(4) Every appeal under this Act shall be disposed of as expeditiously as possible.

40. (1) If the appellate authority referred to in section 20 has, in any appeal under that section against the dismissal or removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any private college, made an order restoring such teacher or other person as such, no appeal against the order of such restoration shall be preferred to the Tribunal, and no appeal against the order of such restoration which, under section 22 stands transferred to the Tribunal, shall be proceeded with by the Tribunal, unless the educational agency deposits with the Tribunal all arrears of pay and allowances due to such teacher or other person from the date of his dismissal or removal or reduction in rank or termination otherwise of his appointment up to the date of deposit, and continues to deposit the pay and allowances due to such teacher or other person until the termination of the proceedings before the Tribunal.

Deposit with the Tribunal of pay and allowances of teachers and other persons employed in private colleges in certain cases.

(2) The deposit under sub-section (1) shall be made within such time and in such manner as may be prescribed.

(3) Where there is any dispute as to the amount to be deposited under sub-section (1), the Tribunal shall, on application made to it either by the educational agency or by such teacher or other person and after making such inquiry as it deems fit, determine summarily the amount to be so deposited.

(4) If the educational agency fails to deposit the amount as aforesaid, the Tribunal shall, unless the educational agency shows sufficient cause to the contrary, stop all further proceedings and make an order directing the educational agency to restore such teacher or other person as such.

(5) (a) Where, as a result of any final order made by the Tribunal at the conclusion of the proceedings before it, such amount of pay and allowances as becomes due to such teacher or other person, shall be paid to him out of the amount deposited under sub-section (1).

(b) If there is any balance left of the amount deposited under sub-section (1) after payment under clause (a) of the pay and allowances referred to in that clause, such balance or, when no amount becomes due as aforesaid to such teacher or other person, the whole of the amount deposited under sub-section (1), shall be returned to the educational agency.

41. (1) The Government may call for and examine the record of any authority or officer prescribed for the purpose of section 37 in respect of any proceedings to satisfy themselves as to the regularity of such proceeding, or the correctness, legality or propriety of any order made, decision taken or direction issued therein; and, if, in any case, it appears to the Government that any such order, decision or direction should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

Revision.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representations.

(3) The Government may, pending the exercise of their power under sub-section (1), pass such interlocutory orders as they deem fit.

CHAPTER VIII

PENALTIES AND PROCEDURE

Penalty
for not
giving
informa-
tion or
giving
false in-
formation.

42. If any person, when required, by or under this Act to furnish any information, omits to furnish such information or furnishes any information which he knows, or has reasonable cause to believe, to be false, or not true in any material particular, he shall be punishable with fine which may extend to one hundred rupees.

Other
penalties.

43. (1) If any person wilfully contravenes, or attempts to contravene, or knowingly abets the contravention of, any of the provisions of this Act or any rule made thereunder, he shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person wilfully obstructs any authority, officer or person, from entering any private college in the exercise of any power conferred on it or him by or under this Act he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Offences
by compa-
nies.

44. (1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm, society or other association of individuals; and

(b) “director” in relation to—

(i) a firm, means a partner in the firm,

(ii) a society or other association of individuals, means the person who is entrusted under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

45. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by an authority or officer authorised by the Government in this behalf.

Cogni-
zance of
offences.

46. No court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

Jurisdic-
tion of
criminal
court.

CHAPTER IX

MISCELLANEOUS

47. (1) The Government may, by notification, authorise any authority or officer to exercise any of the powers vested in them by or under this Act except the power to make rules and may, in like manner, withdraw such authority.

Delega-
tion of
powers
of
Govern-
ment.

(2) (a) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such authority or officer as may be empowered by them in this behalf.

(b) The Government shall also have the power to control and revise the acts or proceedings of any authority or officer so empowered.

48. Every authority and every officer duly authorised to discharge any duty imposed on it or him by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Compe-
tent
authority,
etc.,
to be
public
servant.

49. No civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by any authority or officer empowered under this Act.

Civil
court not
to decide
question
under
this
Act.

50. (1) Any order made, decision taken or direction issued by any authority or officer, in respect of matters to be determined for the purposes of this Act shall, subject only to appeal or revision, if any, provided under this Act, be final.

Finality
of orders,
etc., pass-
ed under
this Act.

(2) No such order, decision or direction shall be liable to be questioned in any court of law.

51. (1) No suit or other proceeding shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

Indem-
nity.

(2) (a) No suit, prosecution or other proceeding shall lie against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(b) No authority or officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

(3) No suit, prosecution or other proceeding shall be instituted against any authority or officer or a servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the date of the expiry of six months from the date of the act complained of.

Over-riding effect of this Act.

Power to make rules.

52. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force including any regulation or statute of any university.

53. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form of applications and the statements under this Act and the particulars which such application and statement shall contain;

(c) the establishment and maintenance of private colleges;

(d) the giving of grants to private colleges;

(e) the grant of permission under sub-section (1) of section 5;

(f) the admission of students in private colleges including special provision for the advancement of socially and educationally Backward Classes of citizens and the Scheduled Castes and the Scheduled Tribes.

Explanation.—In this clause, “Scheduled Castes” and “Scheduled Tribes” shall have the same meaning as in the Constitution;

(g) the manner in which accounts, registers and records shall be maintained in private colleges and the authority responsible for such maintenance;

(h) the submission of returns, statements, reports and accounts by educational agencies of private colleges;

(i) the purposes of the private college for which the premises of the private college may be used and the conditions subject to which such premises may be used for any other purpose;

(j) the conditions subject to which donations or contributions from the public may be accepted for the purposes of private colleges and the naming of private colleges;

(k) the procedure and the disposal of the business of the Tribunal.

Publication of rules, commencement of rules and notifications and placing them on the table of the Legislature.

54. (1) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(2) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

55. The provisions of this Act shall apply to persons, other than teachers, employed in private colleges as from the date of publication of this Act in the *Tamil Nadu Government Gazette*.

Act to be prospective in its application to certain persons.

56. (1) The Tamil Nadu Private Colleges (Regulation) Ordinance, 1976, is hereby repealed.

Repeal and saving.

Tamil
Nadu
Ordinance
11 of 1976.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance including any orders passed, notification issued, rules, regulations and appointments made shall, in so far as they are not inconsistent with this Act, be deemed to have been done or taken under this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Reasons for the enactment

The Government of Tamil Nadu decided to regulate the conditions of service of teachers employed in private colleges and to make the rules relating to managing bodies and payment of grants to such colleges statutory. As the Legislature of the State of Tamil Nadu was not in session, the Tamil Nadu Private Colleges (Regulation) Ordinance, 1975 was promulgated on the 21st November, 1975.

2. The President issued a Proclamation on the 31st January, 1976 under article 356 of the Constitution, in relation to the State of Tamil Nadu, declaring *inter alia* that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament. Hence, by virtue of the powers delegated to the Governor of Tamil Nadu by the President, the Tamil Nadu Private Colleges (Regulation) Ordinance, 1976 (Tamil Nadu Ordinance 11 of 1976) was promulgated with some modifications to make certain provisions of the Ordinance inapplicable to minority colleges.

3. It is proposed to replace this Ordinance by a President's Act with additional provisions to the effect that no private college shall be established without affiliation to a University, that the non-teaching staff of private colleges would also come within the scope of the measure and that a University may make regulations, statutes and ordinances specifying the qualifications for appointment of teachers and other persons employed in private colleges.

4. The proposed measure seeks to give effect to the above proposal.

5. Parliament has under article 357(1) (a) of the Constitution, now conferred on the President, the powers of the Legislature of the State to make laws *vide* the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976).

6. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee on Tamil Nadu Legislation constituted under the above Act. The measure is accordingly being enacted without reference to the Consultative Committee.

ANIL BORDIA.

*Jt. Secy. to the Govt. of India,
Ministry of Education and Social Welfare,
(Department of Education).*